THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 34319 of 1997

Dated: 23.02.2007

Between:

S.K. Shaikshavali, S/o late Hotel Budan Saheb, aged 35 years, Occ: Agriculture, R/o 1-157, Kodumur village, kurnool District and others.

..... PETITIONERS

AND

The District Collector, Kurnool and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 34319 of 1997

Order:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not granting pattas to the petitioners in Survey No.164/B-2, admeasuring Ac.0.22 Cents, situated at Kodumur village of Kurnool District and interfering with their peaceful possession and enjoyment over the said land, as illegal and arbitrary, and consequently direct the respondents to grant pattas in favour of the petitioners in respect of the said land.

2. The case of the petitioners, in brief, is that they have been residing in the land in question since more than 40 years by erecting huts, and from the year 1983, they made several representations requesting the respondents to assign the said land in their favour and to grant house site pattas to them. They state that in pursuance of the said representations, the 2nd respondent-Mandal Revenue Officer submitted a report to the

1st respondent-District Collector on 10.05.1996 recommending their case. But, as no action had been taken by the 1st respondent-District Collector, they again made a representation, dated 19.05.1997 to the

1st respondent-District Collector, who in turn directed the 2nd respondent-Mandal Revenue Officer to enquire into the matter and grant pattas to them by 25.05.1997. In spite of the said directions, the 2nd respondent-Mandal Revenue Officer, without granting any pattas to them, submitted a report to the 1st respondent-District Collector on

21.05.1997. The grievance of the petitioners is that the respondents, instead of assigning the land and issuing pattas in their favour, are trying to interfere and dispossess them from the lands in question without following due process of law. Hence, they filed the present writ petition.

3. Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

4. Admittedly, the petitioners are in possession of the lands in question since more than 40 years, and the Gram Panchayat also passed a resolution on 27.07.1992 stating that it has no objection if the said land in possession of the petitioners is assigned to them. Further, the

2nd respondent-Mandal Revenue Officer also, vide his proceedings, dated 21.05.1997, requested the District Collector that the land in question may be assigned to the petitioners having regard to their long possession. All these factors clearly establish that the petitioners are landless poor persons and they are entitled for assignment. But, the learned Government Pleader for Revenue, reiterating the counter averments, contended that the land in question is 'Kunta Poramboke' and as per the rulings of this Court, the rights of 'Kunta Poramboke' shall vest with the Gram Panchayat, and therefore, the said land shall not be assigned to the petitioners. However, the Mandal Revenue Officer, in his proceedings No.Rc.A.69/96, dated 21.05.1997, has clearly observed that the land in Survey No.164/2B2, which is undisputedly 'Kunta Poramboke' is required to be transferred as village site, so that the assignment can be made in favour of the petitioners. In the light of the above, this Court is of the view that this writ petition can be disposed of with the following directions:

The 1st respondent-District Collector is directed to consider the cases of the petitioners in the light of the recommendations made by the

Mandal Revenue Officer and the Gram Panchayat, and pass appropriate orders in the matter in accordance with law. Having regard to the fact that while issuing Rule Nisi this Court directed the respondents not to dispossess the petitioners, the 1st respondent-District Collector is hereby directed not to dispossess the petitioners from the lands in question, pending consideration of their cases for assignment.

5. With the above directions, the writ petition is disposed of. No costs.

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GOPALA KRISHNA TAMADA, J.

Date: 23.02.2007
Nsr